

**ASSEMBLY BILL**

**No. 1586**

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**Introduced by Committee on Public Employees, Retirement and Social Security (Negrete McLeod (Chair), Levine (Vice Chair), Chan, Correa, Kehoe, Laird, and Nakanishi)**

February 21, 2003

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An act to amend Sections 22115, 22455.5, 26000, 26300, and 26400 of, and to add Sections 26000.2 and 26113.5 to, the Education Code, relating to state teachers' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1586, as introduced, Committee on Public Employees, Retirement and Social Security. State teachers' retirement: benefits.

(1) Existing law defines "creditable compensation" and "full time" for purposes of calculating retirement benefits for members of the Defined Benefit Program of the State Teachers' Retirement Plan. Those definitions were amended as of July 1, 1996, by Chapter 390 of the Statutes of 1995.

Under this bill, creditable compensation of a member employed by a community college prior to that amendment shall be determined pursuant to the former definition of "full time," if application of that former definition would benefit the member.

(2) Existing law establishes the Cash Balance Benefit Program in the State Teachers' Retirement Plan as a program that school districts, community college districts, and county offices of education may provide to part-time certificated employees, as specified. Employee contributions under the Cash Balance Benefit Program are deposited in the Teachers' Retirement Fund, a continuously appropriated fund.

Existing law provides that full-time classified employees of community college districts, among others, are subject to coverage under the Public Employees' Retirement System and authorizes those districts to offer that coverage to its part-time classified employees.

This bill would make part-time classified employees of community college districts, who are excluded from mandatory membership in the Public Employees' Retirement System, eligible for membership in the Cash Balance Benefit Program of the State Teachers' Retirement Plan. By expanding the class of employees who may make contributions to the Teachers' Retirement Fund, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22115 of the Education Code is  
2 amended to read:

3 22115. (a) "Compensation earnable" means the creditable  
4 compensation a person could earn in a school year for creditable  
5 service performed on a full-time basis, excluding service for which  
6 contributions are credited by the system to the Defined Benefit  
7 Supplement Program.

8 (b) The board may determine compensation earnable for  
9 persons employed on a part-time basis.

10 (c) When service credit for a school year is less than 1.000,  
11 compensation earnable shall be the product obtained when  
12 creditable compensation paid in that year is divided by the service  
13 credit for that year, except as provided in subdivision (d).

14 (d) When a member earns creditable compensation at multiple  
15 pay rates during a school year and service credit at the highest pay  
16 rate is at least .900 of a year, compensation earnable shall be  
17 determined as if all service credit for that year had been earned at  
18 the highest pay rate. This subdivision shall be applicable only for  
19 purposes of determining final compensation. When a member  
20 earns creditable compensation at multiple pay rates during a  
21 school year and service credit at the highest pay rate is less than  
22 .900 of a year, compensation earnable shall be determined  
23 pursuant to subdivision (c).

24 (e) *For purposes of determining compensation earnable for a*  
25 *member employed by a community college prior to July 1, 1996,*

1 *full-time shall be defined pursuant to Section 22138.5 and*  
2 *pursuant to Section 20521 of Title 5 of the California Code of*  
3 *Regulations, as those provisions read on June 30, 1996, if*  
4 *application of that definition will increase the compensation*  
5 *earnable or otherwise enhance the benefits of the member.*

6 (f) The amendments to this section made during the second year  
7 of the 1999–2000 Regular Session shall become operative on July  
8 1, 2002, if the revenue limit cost-of-living adjustment computed  
9 by the Superintendent of Public Instruction for the 2001–02 fiscal  
10 year is equal to or greater than 3.5 percent. Otherwise the  
11 amendments to this section made during the second year of the  
12 1999–2000 Regular Session shall become operative on July 1,  
13 2003.

14 SEC. 2. Section 22455.5 of the Education Code is amended  
15 to read:

16 22455.5. (a) The Legislature finds and declares that the  
17 federal Omnibus Budget Reconciliation Act of 1990 (P.L.  
18 101-508) requires all public employers to provide their employees  
19 with either social security coverage or membership in a qualified  
20 retirement plan.

21 (b) Employers shall make available criteria for membership,  
22 including optional membership, in a timely manner to all persons  
23 employed to perform creditable service subject to coverage by the  
24 Defined Benefit Program, and shall inform part-time and  
25 substitute employees *employed to perform creditable service*  
26 *subject to coverage by the Defined Benefit Program*, within 30  
27 days of the date of hire, or by March 1, 1995, whichever is later,  
28 that they may elect membership in the plan's Defined Benefit  
29 Program at any time while employed. Written acknowledgment by  
30 the employee shall be maintained in employer files on a form  
31 provided by this system.

32 (c) Employers shall be liable to the plan for employee and  
33 employer contributions and interest with respect to the Defined  
34 Benefit Program from the date of hire, or March 1, 1995,  
35 whichever is later, in addition to system administrative and audit  
36 costs, if an audit or a member's complaint reveals noncompliance.  
37 However, no employer shall be liable for employee contributions  
38 for service performed prior to January 1, 1995.

39 SEC. 3. Section 26000 of the Education Code is amended to  
40 read:

26000. The Legislature hereby finds and declares that the State Teachers' Retirement System Cash Balance Plan was created and established on July 1, 1996, to provide a retirement plan for persons employed to perform creditable service for less than 50 percent of the full-time equivalent for the position. The persons eligible for the Cash Balance Plan were excluded from mandatory membership in the State Teachers' Retirement System Defined Benefit Plan. Both plans are administered by the Teachers' Retirement Board. Because both plans were intended to provide for the retirement of teachers and other persons employed in connection with the public schools of this state and schools supported by this state, a merger of these two plans is now hereby made for the purpose of establishing a single retirement plan that shall be known and may be cited as the State Teachers' Retirement Plan consisting of the different benefit programs set forth in this part and Part 13 (commencing with Section 22000). The plan shall be administered by the Teachers' Retirement Board as set forth in this part and Part 13 (commencing with Section 22000). ~~As a result of this merger, a Cash Balance Benefit Program will be provided under the State Teachers' Retirement Plan and that program is set forth in this part.~~

~~The governing board of a school district, community college district, or county office of education may, by formal action, elect to provide the benefits of the Cash Balance Benefit Program under this part for their employees.~~

SEC. 4. Section 26000.2 is added to the Education Code, to read:

26000.2. (a) As a result of the merger described in Section 26000, the Cash Balance Benefit Program shall be provided under the State Teachers' Retirement Plan to provide a retirement plan for persons employed to perform creditable service who are excluded from mandatory membership in the Defined Benefit Program and persons employed by community college districts who are excluded from mandatory membership in the Public Employees' Retirement System. That program is set forth in this part.

(b) The governing board of a school district, community college district, or county office of education may, by formal action, elect to provide the benefits of the Cash Balance Benefit Program for their eligible employees.

SEC. 5. Section 26113.5 is added to the Education Code, to read:

26113.5. "Creditable service," for purposes of this part only, also means any service not described in Section 26113 that is performed for a community college district by a person who is excluded from mandatory membership in the Public Employees' Retirement System because he or she is serving on a less than full-time basis.

SEC. 6. Section 26300 of the Education Code is amended to read:

26300. (a) Within 10 working days following the ~~later~~ latest of the first day of employment, the date of the employer's governing board's action to provide the Cash Balance Benefit Program, or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, the employer shall make available to the employee the following information:

(1) The employee's rights and responsibilities as a participant in the program, the employer's responsibilities under the program, and the benefits payable under the program.

(2) The employee's right to elect membership in the Defined Benefit Program in lieu of participation in the Cash Balance Benefit Program, the rights and responsibilities of a member and the employer under the Defined Benefit Program, and benefits payable under the Defined Benefit Program. *This paragraph does not apply to an employee employed to perform creditable service described in Section 26113.5.*

(b) Written acknowledgment by the employee that he or she has received the information specified in subdivision (a) shall be retained in the employer's files on a form prescribed by the system.

(c) If an employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect other coverage in lieu of the Cash Balance Benefit Program pursuant to Section 26400, the employer shall, within 10 working days following the ~~later~~ latest of the first day on which creditable service is performed, the date of the employer's governing board's action to provide the program, or the effective date of the employer's governing board's action to provide the program, notify existing employees of the following:

1 (1) The employee's right to elect other coverage if offered by  
2 the employer in lieu of participation in the Cash Balance Benefit  
3 Program.

4 (2) The rights and responsibilities of the employer and a  
5 participant in an alternative retirement plan if offered by the  
6 employer.

7 (3) The benefits payable under an alternative retirement plan if  
8 offered by the employer.

9 SEC. 7. Section 26400 of the Education Code is amended to  
10 read:

11 26400. (a) A person employed to perform creditable service  
12 for less than 50 percent of the full-time equivalent for the position  
13 shall become a participant on the later of the first day on which  
14 creditable service is performed for an employer that provides the  
15 Cash Balance Benefit Program or the effective date of the  
16 employer's governing board's action to provide the Cash Balance  
17 Benefit Program, provided the person is not subject to mandatory  
18 membership in the Defined Benefit Program.

19 (b) If the employer's governing board's action to provide the  
20 Cash Balance Benefit Program gives employees the right to elect  
21 coverage under social security or an alternative retirement plan  
22 offered by the employer in addition to the Cash Balance Benefit  
23 Program, the employee may elect within 60 calendar days of the  
24 later of the first day on which creditable service is performed, the  
25 date of the employer's governing board's action to provide the  
26 Cash Balance Benefit Program, or the effective date of the  
27 employer's governing board's action to provide the Cash Balance  
28 Benefit Program to be covered by social security or to participate  
29 in the alternative retirement plan in lieu of participating in the Cash  
30 Balance Benefit Program. Any election ~~shall~~ *may* not preclude an  
31 employee from participating in the Cash Balance Benefit Program  
32 at a later date so long as the Cash Balance Benefit Program is  
33 provided by the employer and the employee is eligible to  
34 participate in the Cash Balance Benefit Program.

35 (c) If subdivision (b) is applicable, the employer shall inform  
36 employees pursuant to subdivision (c) of Section 26300 of their  
37 right to make an election and the election shall be made on a form  
38 prescribed by the system and filed with the employer. The election  
39 shall become effective on the later of the first day on which  
40 creditable service is performed or the effective date of the



1 employer's governing board's action to provide the Cash Balance  
2 Benefit Program.

3 (d) If the participant's basis of employment with an employer  
4 that provides the Cash Balance Benefit Program changes to  
5 employment to perform creditable service, *as defined in Section*  
6 *26113*, for 50 percent or more of the full-time equivalent for the  
7 position, contributions to the Cash Balance Benefit Program on  
8 behalf of the participant shall no longer be made and creditable  
9 service performed for that employer shall be subject to coverage  
10 by the Defined Benefit Program as of the first day of the pay period  
11 in which the change in the participant's basis of employment  
12 occurred.

13 (e) *If the participant's basis of employment with an employer*  
14 *that provides the Cash Balance Benefit Program changes to*  
15 *employment to perform service that is subject to mandatory*  
16 *membership in the Public Employees' Retirement System,*  
17 *contributions to the Cash Balance Benefit Program on behalf of*  
18 *the participant may no longer be made and that service performed*  
19 *for the community college district shall be subject to coverage by*  
20 *the Public Employees' Retirement System as of the first day of the*  
21 *pay period in which the change in the participant's basis of*  
22 *employment occurred.*

